



# *Arizona Peace Officer Standards and Training Board*

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## **Minutes of Meeting January 17, 2018**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on January 17, 2018, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

### Members Present:

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman  
Sergeant Chris Andreacola, Tucson Police Department  
Sergeant Leo Aparicio, Pinal County Sheriff's Office  
Sheriff Mark Dannels, Cochise County Sheriff's Office (via telephone)  
Chief Lawrence Hall, Buckeye Police Department  
Mr. Andrew LeFevre, Grand Canyon University  
Director Charles Ryan, AZ Department of Corrections  
Colonel Frank Milstead, Arizona Department of Public Safety  
Chief Alan Rodbell, Scottsdale Police Department  
Mr. Richard Wooten, Public Member

### Members Absent:

Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich  
Chief Byron Gwaltney, Pima County Sheriff's Department

### Staff in Attendance:

Jack G. Lane, Executive Director  
Billy Caldwell, Compliance Specialist  
Mike Deltenre, Compliance Specialist  
Marie Dryer, Program Administrator  
Cathy Hawse, Compliance Specialist  
Arlene Heckel, Compliance Specialist  
Steve Jacobs, Compliance Specialist  
Mike Orose, Compliance Specialist  
Mark Perkovich, Program Administrator  
Cynthia Sawyer, Training Compliance Specialist  
Sandy Sierra, Administrative Services Officer  
Lori Wait, Compliance Specialist

Assistant Attorneys General:

Michael Saltz  
Seth Hargraves  
Jeanne Galvin

**A. Call to Order**

Chairman Mascher called the meeting to order at 10:00 a.m. and asked Chief Rodbell to lead everyone in reciting the Pledge of Allegiance.

**B. Introductions, Presentations and Announcements**

*Jack G. Lane, Executive Director*

- Sheriff Dannels will be participating telephonically today.
- Assistant Attorney General Jeanne Galvin will provide legal advice to the Board on the Jazz E. Knighton case.
- The Budget Subcommittee will meet this afternoon to finalize its recommendations to the Board regarding basic training funding.
- The Basic Curriculum Project that will update the basic training curriculum for the academies is on track. The Technical Advisory Committee will have its first meeting on January 24 to discuss the Job Task Analysis (JTA).

**C. Consent Agenda**

Colonel Milstead made a motion to accept the Consent Agenda. The motion was seconded by Chief Rodbell and passed unanimously.

1. Minutes of the Board meeting held on November 14, 2017, were approved as written.  
Minutes of the Board meeting held on December 20, 2017, were approved as written.
2. Ministerial Actions:
  - a. Certification Waivers:

Robert D. Goldsby	Arizona Attorney General's Office
Charon Griswold	Peoria Police Department
Scott M. Hirsch	Arizona Attorney General's Office
Bradley R. King	Cottonwood Police Department
Michael S. Malecha	Scottsdale Police Department
Matthew T. Marble	Chandler Police Department
Carlos E. Reinhold	Show Low Police Department
Shannon Scheel	Maricopa County Sheriff's Office
Kevin R. Tomaszewski	Chandler Police Department
Brenda A. Sazonova	Glendale Police Department
Jeffrey R. Baptista	Pima County Sheriff's Department
David L. Allen	AZ Department of Transportation - ECD
Dana A. Peterson	Lake Havasu City Police Department

3. Income and Expense Statement – November 2017

Funds as of November 1, 2017	\$1,466,758.56
CJEF Revenue (November 2017)	456,543.46
Misc. Revenue (November 2017)	0.00
Expenditures for November 2017	(402,647.60)
Balance as of November 30, 2017	\$1,520,654.42

4. Consent Agreements for Voluntary Relinquishment and/or Voluntary Denial of Peace Officer Certification for the following:

William Webb	17-159	Pinal County Sheriff’s Office
Garrett A. Dever	17-097	Chandler Police Department
Jonathan D. Kemp	16-107	Peoria Police Department
Dallas O. McGaughey	17-134	Scottsdale Police Department

**D. Executive Director’s Report**

*Jack G. Lane, Executive Director*

- The revenue last month was slightly above average. This is the first time in a very long time that revenue is higher than spending. The Governor’s 2019 budget shows \$837,000 being allocated to AZ POST for basic training funding; but this must still be approved by the legislature.
- Will be attending the AACOP Annual Membership Meeting this Friday.
- Training Manager Don Yennie will be retiring at the end of March. A replacement has been selected and is currently in the background process.

**E. Legislative Update**

*Jack G. Lane, Executive Director*

- A new bill - HB 2239 - was introduced; this bill will greatly affect the structure of the Board. The bill would remove from the Board the memberships of a college faculty member, the director of the Department of Corrections, the Attorney General, the jail detention officer and replace the two certified officer positions with five retired law enforcement officers who have extensive knowledge and experience in use of force incidents and discipline; it would also change the membership of the public members by having one member appointed by the President of the Senate and the other appointed by the Speaker of the House; and both public members must not be associated with law enforcement. The Governor’s Office expressed concerns about this Bill; as well as various groups. After a short discussion, Mr. LeFevre made a motion to oppose HB 2239 and instruct staff to do so. The motion was seconded by Chief Rodbell and passed unanimously.
- There are a couple of other Bills being watched closely. One deals with a surcharge change to the Criminal Justice Enhancement Fund (CJEF). The change would increase the percentage that POST receives from 16.64% to 18.97%. Chief Rodbell stated he does not

feel comfortable with tying citations to POST funding; he would like to see us move away from CJEF reliability. Executive Director Lane stated this is the direction he is looking at for the future.

**F. Summary of Current Events**

*Jack G. Lane, Executive Director*

There is nothing new to report.

**G. Review, Discussion and Possible Action on Off-Duty DUIs and the Board's Position and Direction to Staff Regarding Future Cases**

The subject of off-duty DUIs is once again being discussed. This issue was addressed at the July 2015 Pow Wow Meeting; as well as the March 2016 Board Meeting. At both of these meetings, public comments were heard and several agency heads addressed the Board. Staff is looking for direction from the Board as to how it wants staff to handle off-duty DUIs with non-aggravating factors.

Chairman Mascher stated he thought that non-aggravating DUIs were going to be handled with agency discretion and the individual agencies were going to handle these. If the Board received a non-aggravating DUI case, it would be placed on the Consent Agenda and not be addressed on an individual basis. The Board heard plenty of times from chiefs, directors and sheriffs that that is how they felt these cases should be handled.

Assistant Attorney General Saltz stated that currently on non-aggravating DUIs, POST staff was under the presumption that the Board would be taking no action and leaving it up to the agency. If POST staff finds out there is some type of aggravator, perhaps previous action by an agency, or POST staff learns this may not be their first DUI, these cases would be presented to the Board. His concern is that this is misconduct; there has been an arrest made. He feels it is important that a no action still be considered a Board action. He feels it is important that the Board see these cases. If the Board decides it wants to leave it to agency discretion, he feels it would take a Board action. Whether or not it goes on the Consent Agenda or stays on the open agenda, it would be the Board's decision. He does not believe it would be proper to let staff just administratively close these cases.

Chief Rodbell stated if the case goes on the Consent Agenda it can be removed and discussed by the Board, so he does not have a problem going in that direction. What he really wants is consistency from the Board on dealing with these cases and right now that is not happening.

Sheriff Dannels stated his biggest concern is the standardization and consistency of the Board. He is looking for consistency on dealing with this issue that takes away any challenges and gives us credibility as a Board.

Colonel Milstead stated if the leadership of an organization decides to do something outside the norm, the Board still has the ability to drive the suspension of the license. The Board can decide that a non-aggravating DUI is left to the agency discretion, but if there are any aggravating

factors, the Board can address that case individually. DPS will be changing its philosophy regarding DUIs and will now terminate an employee on the first DUI.

Executive Director Lane stated the Consent Agenda will include a brief overview of the case. If the Board feels it needs more information, that case can be removed from the Consent Agenda for further discussion.

Chief Rodbell made a motion that the Board direct staff to recommend no action with agency discretion for cases involving first time conviction of off-duty DUI without aggravating circumstances and include those cases in the Consent Agenda. The motion was seconded by Colonel Milstead and passed with two nay votes recorded for Sergeant Aparicio and Sergeant Andreacola.

**H. Review, Discussion and Possible Action on a Petition of the Drug Experimentation from the Tohono O’odham Nation Police Department on behalf of Applicant Marco Martinez-Jimenez**

The Tohono O’odham Nation Police Department petitioned the Board to determine that the prescription drug usage by applicant Marco Martinez-Jimenez was experimentation. Interim Chief Elton Begay addressed the Board to ask that the petition be granted.

Colonel Milstead made a motion to grant the petition for a determination that the pre-employment Viagra drug usage by Marco Martinez-Jimenez was experimentation. The motion was seconded by Chief Hall and passed unanimously.

**I. Review, Discussion and Possible Action on a Petition of the Drug Experimentation and Juvenile Indiscretion Rule from the Tohono O’odham Nation Police Department on behalf of Applicant Maximiliano Holguin**

The Tohono O’odham Nation Police Department petitioned the Board to determine that the prescription drug usage and sale by applicant Maximiliano Holguin was experimentation and juvenile indiscretion. Interim Chief Elton Begay addressed the Board to ask that the petition be granted.

Colonel Milstead made a motion to grant the petition for a determination that the pre-employment drug usage and sale by Maximiliano Holguin was experimentation and juvenile indiscretion. The motion was seconded by Sheriff Dannels and passed unanimously.

**J. Review, Discussion and Possible Action on a Petition of the Juvenile Indiscretion Rule from the Bisbee Police Department on behalf of Applicant Jay Ritchie**

The Bisbee Police Department petitioned the Board to determine that the drug usage by applicant Jay Ritchie, at the ages of 18 to 19, was juvenile indiscretion. Chief Albert Echave addressed the Board to ask that the petition be granted.

Colonel Milstead made a motion to grant the petition for a determination that the pre-employment drug usage by Jay Ritchie was juvenile indiscretion. The motion was seconded by Director Ryan and passed unanimously.

**K. Reports – Department of Corrections**

*Director Charles Ryan*

- Since the last regular meeting of December 2017, 173 cadets have graduated from COTA. There are 877 vacancies statewide. Ten cadets have graduated through county and tribal detention IGAs; a canine academy has also graduated.
- 175 correctional officer positions will be converted to training positions. Looking for high school graduates who will be assigned non-contact posts to fill these positions. There is a big need to recruit due to the high vacancy problem.
- For the past 18 months there has been the greatest decline in the growth of the prison system since 1974. There are no additional prison beds on the horizon.
- The employment center at the Lewis Prison is expanding from 100 to 275 beds and an additional 20 beds at the women’s prison at Perryville.

**Reports – In-Service Training**

*Training Program Administrator Don Yennie*

- Since the last regular meeting of December 2017, the following training was facilitated: Background Investigator School, ALP #23 Orientation, Basic Equine class and ALP #23 week one.
- What You Do Matters will be holding a two-day training session at AZ POST next week.
- The Digital Media Unit has been working on the following:
  - APRAIS Domestic Violence Training under the Arizona Multi-Agency/Stakeholder APRAIS Train-The-Trainer Conference Memorandum of Understanding has begun post production.
  - The production of the AZCJC Arizona Youth Survey (AYS) marketing program is nearing completion.
  - Production continues with the Gila River Indian Community and Police Department for the GRICPD short video presentation.
  - Law Enforcement CPR Update 2018 is completed and available via the digital download system.
  - A short training video on how to administer Naloxone to K-9 officers is being produced.
- A statewide training coordinators meeting will be held next week.

**L. Final Action Cases:**

1. 15-170 – Jazz E. Knighton – Colorado River Indian Tribes Police Department

The Board heard oral argument on the Administrative Law Judge’s (ALJ) Decision from Assistant Attorney General Seth Hargraves, attorney for the Arizona Peace Officers Standards and Training Board. Mr. Knighton was present and addressed the Board.

Colonel Milstead made a motion to accept the ALJ’s Findings of Fact and Conclusions of Law, to include Notice of Corrigendum, and revoke Mr. Knighton’s peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

2. #17-093 – Eddie Conaway – Phoenix Police Department  
The Board considered comments from Assistant Attorney General Michael Saltz and Eric Wilson, attorney for Mr. Conaway. Sergeant Aparicio made a motion to reject the Consent Agreement, Decision and Order which called for a 120-hour suspension of Mr. Conaway's peace officer certification. The motion was seconded by Sheriff Dannels and passed with one nay vote recorded for Chief Rodbell.
3. #17-092 – Nelu D. Podea – Phoenix Police Department  
The Board considered comments from Assistant Attorney General Michael Saltz and Eric Wilson, attorney for Mr. Podea. Sergeant Aparicio made a motion to reject the Consent Agreement, Decision and Order which called for a 240-hour suspension of Mr. Podea's peace officer certification. The motion was seconded by Sergeant Andreacola and passed unanimously.
4. #16-058 – Fernando Hernandez – Gila River Police Department  
The Board considered comments from Assistant Attorney General Michael Saltz. Sergeant Aparicio made a motion to accept the Consent Agreement, Decision and Order for a 15-month suspension of Mr. Hernandez's peace officer certification. The suspension shall be in effect from April 8, 2016 through July 8, 2017. The motion was seconded by Sergeant Andreacola and passed unanimously.
5. #16-059 – Ruben Salinas – Gila River Police Department  
The Board considered comments from Assistant Attorney General Michael Saltz. Chief Rodbell made a motion to accept the Consent Agreement, Decision and Order for a two year suspension of Mr. Salinas' peace officer certification. The suspension shall be in effect from April 8, 2016 through April 8, 2018. The motion was seconded by Colonel Milstead and passed unanimously.
6. #15-083 – Pedro Ortiz – Mesa Police Department  
The Board considered comments from Compliance Manager Mark Perkovich. Colonel Milstead made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Ortiz's peace officer certification. The motion was seconded by Director Ryan and passed unanimously.
7. #16-129 – Victor M. Perea Jr. – Casa Grande Police Department  
The Board considered comments from Compliance Manager Mark Perkovich. Chief Hall made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Perea's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.
8. #17-101 – Cody A. Huggins – Phoenix Police Department  
The Board considered comments from Compliance Manager Mark Perkovich. Chief Rodbell made a motion to accept the Findings of Fact and Conclusions of Law and deny peace officer certification to Mr. Huggins. The motion was seconded by Sergeant Aparicio and passed unanimously.

9. #17-108 – Jared E. Standage – Chandler Police Department  
The Board considered comments from Compliance Manager Mark Perkovich. Chief Rodbell made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Standage's peace officer certification. The motion was seconded by Colonel Milstead and passed unanimously.
10. #17-012 – Joseph M. Grant – AZ Department of Agriculture  
The Board considered comments from Compliance Manager Mark Perkovich. Chief Hall made a motion to accept the Findings of Fact and Conclusions of Law and deny peace officer certification to Mr. Grant. The motion was seconded by Sheriff Dannels and passed with one nay vote recorded for Sergeant Aparicio.
11. #17-086 – David Velarde – Maricopa Police Department  
The Board considered comments from Compliance Manager Mark Perkovich. Chief Rodbell made a motion to accept the Findings of Fact and Conclusions of Law and deny peace officer certification to Mr. Velarde. The motion was seconded by Director Ryan and passed unanimously.

**M. New Charging Cases:**

1. #17-172 – Vitale N. Sessions – Mesa Police Department  
*Colonel Milstead recused himself from this case.* The Board considered comments from Compliance Specialist Billy Caldwell. Chief Rodbell made a motion to **Initiate Proceedings** against Mr. Sessions' peace officer certification and to include violation of AZ POST Rule R13-409(A)(8) and (12). The motion was seconded by Director Ryan and passed unanimously.
2. #17-176 – Charles A. Summers – Casa Grande Police Department  
The Board considered comments from Compliance Specialist Billy Caldwell. Chief Hall made a motion to close this case with **No Action with Agency Discretion**. The motion was seconded by Sheriff Dannels and passed unanimously.
3. #17-171 – Alfredo Valenzuela – Phoenix Police Department  
The Board considered comments from Compliance Specialist Billy Caldwell. Colonel Milstead made a motion to **Resolve in Future**. The motion was seconded by LeFevre. Colonel Milstead then amended his motion and moved to close this case with **No Action with Agency Discretion**. The motion was seconded by Mr. LeFevre and passed unanimously.
4. #17-133 – Brett O. Barber – Tucson Police Department  
*Sergeant Andreacola recused himself from this case.* The Board considered comments from Compliance Specialist Cathy Hawse. Chief Rodbell made a motion to **Initiate Proceedings** against Mr. Barber's peace officer certification. The motion was seconded by Chief Hall and passed unanimously.

5. #16-194 – Jeff S. Williams – Tohono O’odham Nation Police Department  
The Board considered comments from Compliance Specialist Arlene Heckel. Sergeant Aparicio made a motion to ***Initiate Proceedings*** against Mr. Williams’ peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.
6. #17-029 – Ismael E. Fuentes – AZ Attorney General’s Office  
The Board considered comments from Compliance Specialist Mike Orose. Sheriff Dannels made a motion to ***Initiate Proceedings*** against Mr. Fuentes’s peace officer certification. The motion was seconded by Colonel Milstead and passed unanimously.
7. #17-028 – Jason M. Walter – Surprise Police Department  
The Board considered comments from Compliance Specialist Mike Orose. Colonel Milstead made a motion to ***Initiate Proceedings*** against Mr. Walter’s peace officer certification. The motion was seconded by Director Ryan and passed unanimously.
8. #17-110 – Aaron M. Jacobs – AZ Department of Public Safety  
*Colonel Milstead recused himself from this case.* The Board considered comments from Compliance Specialist Lori Wait. Sergeant Aparicio made a motion to ***Initiate Proceedings*** against Mr. Jacobs’ peace officer certification. The motion was seconded by Mr. Wooten and passed unanimously.
9. #17-175 – Francisco J. Perez – AZ Department of Public Safety  
*Colonel Milstead recused himself from this case.* The Board considered comments from Compliance Specialist Lori Wait. Chief Hall made a motion to ***Initiate Proceedings*** against Mr. Perez’s peace officer certification. The motion was seconded by Sergeant Aparicio and passed unanimously.

**N. Call to the Public**

No one wished to address the Board.

**O. Future Agenda Items**

The basic training funding issue will be placed on the February agenda.

**P. Adjournment**

The meeting was adjourned at 12:36 p.m.